

DNC's timing rule, such Members of Congress are not entitled to attend the Convention as delegates. DNC Delegate Selection Rules 20(C)(1)-(3); (Declaration of Philip McNamara In Support of Defendants Howard Dean's and Democratic National Committee's Motion for Summary Judgment ("McNamara Dec") ¶31.

3. Disputed in part, for the same reason as set forth in ¶2, supra.
4. Disputed in part, for the same reason as set forth in ¶2, supra.
5. Undisputed but immaterial.
6. Undisputed.
7. Undisputed.
8. Sets forth conclusions of law.
9. Undisputed but immaterial.
10. Undisputed.
11. Undisputed.
12. Undisputed but immaterial.
13. Disputed. Party caucuses have been used by many states to allocate delegates among presidential candidates both prior to and after 1968, including 20 states using such a process for 2008. McNamara Dec. ¶¶11-13.
14. Undisputed.
15. Undisputed.
16. Disputed. The DNC Delegate Selection Rules clearly allow the Florida Democratic Party to use a party-run caucus system to allocate delegate

positions and select delegates. McNamara Dec. ¶¶12, 34, 51-52. Further, the DNC disputes that a “caucus could not be used to select delegates to the Democratic convention, both because it would be financially unachievable and logistically unrealistic to put into practice.” The DNC submitted to the FDP a caucus plan that would have provided for participation by all Florida Democrats, would have fully complied with the DNC Rules and for which the DNC would have covered the entire cost, but the FDP rejected it. *Id.* ¶¶52-53.

17. Undisputed but immaterial.
18. Undisputed but immaterial.
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29. Undisputed but immaterial.
30. Undisputed but immaterial.
31. Undisputed but immaterial.

32. Undisputed but immaterial.
33. Disputed in part. Under the DNC Rules, when a state party submits a plan to use a binding primary or caucus on a date that violates the DNC's Delegate Selection Rules, that state automatically loses 50% of its pledged delegates and all of its unpledged delegates, but the DNC Rules and Bylaws Committee has authority to impose additional sanctions including but not limited to further reductions in the state's delegation. DNC Delegate Selection Rules 20(C)(5)& (6); McNamara Dec. ¶31.
34. Disputed and immaterial. The switch from March 11, 2008 to January 29, 2008 for the date of the primary was not merely "caused by the Republican-controlled state government of Florida," but was actively supported by Democratic leaders and legislators in the state Senate and House. McNamara Dec. ¶¶38-49.
35. Disputed. Under the DNC Rules, when a state party submits a plan to use a binding primary or caucus on a date that violates the DNC's Delegate Selection Rules, that state automatically loses 50% of its pledged delegates and all of its unpledged delegates, but the DNC Rules and Bylaws Committee has authority to impose additional sanctions including but not limited to further reductions in the state's delegation. DNC Delegate Selection Rules 20(C)(5)& (6); McNamara Dec. ¶31.
36. Disputed. Senator Nelson, Congressman Hastings and Congresswoman Brown do not enjoy any vested "rights" to serve as super-delegates to the Convention. The same DNC Delegate Selection Rules that provide that

normally all Democratic Members of Congress are to be certified to attend as “super-delegates” also provide that if a state party submits a plan for selection of delegates involving a primary on a date that violates the DNC’s timing rule, such Members of Congress are not entitled to attend the Convention as delegates. DNC Delegate Selection Rules 20(C)(1)-(3); McNamara Dec. ¶31.

37. Undisputed but immaterial.
38. Disputed. The DNC RBC has never made any determination about what constitutes “campaigning” in Florida because the potential sanction of candidates for “campaigning”—denial of delegates to that candidate—is moot since there are no delegates to be awarded. McNamara Dec. ¶64.
39. Undisputed but immaterial.
40. Disputed conclusion of law.
41. Disputed conclusion of law. It is the refusal of the FDP to agree to an alternative, party-run process that is depriving Florida Democrats of the opportunity to participate in a process that will result in the allocation of delegates.
42. Disputed conclusion of law, same reason at ¶41.
43. Disputed. Same reason as ¶38.
44. Disputed. Same reason as ¶38.
45. Disputed. McNamara Dec. ¶57.
46. Disputed but immaterial.
47. Undisputed but immaterial.

48. Disputed. A party-run process in used in Michigan, which is indeed one of the nation's ten most populous states. McNamara Dec. ¶57 & Ex. B.

49. Undisputed but immaterial.

Respectfully submitted on November 19, 2007,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was served via CM/ECF to Counsel for Plaintiffs. Kendall Coffey and Jeffrey B. Crockett, Coffey Burlington, Office in the Grove, Penthouse, 2699 S. Bayshore Drive, Miami, Florida 33133 and Ronald G. Meyer, Meyer and Brooks, P.A., 2544 Blairstone Pines Drive, Tallahassee, Florida 32301, and to counsel for Defendant Kurt S. Browning, Lynn C. Hearn, General Counsel, Department of State, 500 S. Bronough Street, Tallahassee, Florida, 32399 on November 19, 2007.

s/ Thomas A. Range